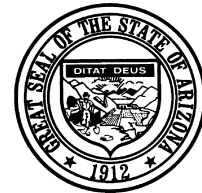


# ARIZONA TAX NEWS



Jane Dee Hull, Governor

Mark Killian, Director

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[www.revenue.state.az.us](http://www.revenue.state.az.us)

### Arizona Department of Revenue Mission Statement

The purpose of the Arizona Department of Revenue is to promote voluntary compliance with all tax obligations through fair administration, firm enforcement, and prompt and courteous service in a manner that justifies the highest degree of public confidence in our efficiency and integrity.

## Nexus and Corporate Income Tax

Corporate income taxation "nexus", is a connection, a tie, or a link, to a jurisdiction for creating definite presence for tax purposes. *In Complete Auto Transit Inc. v. Brady*, 430 U.S. 274 (1977) The United States Supreme Court held that a tax on a business that engaged in interstate commerce is not per se a violation of the commerce clause. The Supreme Court held that interstate commerce enjoys no immunity from tax. In fact, interstate commerce should pay its fair share. The court determined that for such a tax to be valid four tests must be met:

- (1) the tax must apply to an activity with "substantial nexus" to the taxing state;
  - (2) the tax must be fairly related to benefits provided by the state;
  - (3) the tax must not discriminate against interstate commerce; and
  - (4) the tax must be fairly apportioned.
- Subsequently the Congress of the United States decided to further limit a state's jurisdiction to impose taxes based on income when it enacted Public Law (PL) 86-272. PL 86-272

provides that the State may not impose a net income tax on an out-of-state company if the company only solicits orders for sales of tangible personal property. This protection extends to solicitation by either employees or independent contractors. Arizona's understanding of these limitations and its interpretation of them is set forth in Corporate Tax Ruling ("CTR") 99-5, which can be found, on our Website: <http://www.revenue.state.az.us/framerul/rulingf.htm>.

The Arizona Department of Revenue's Corporate Audit Section does provide a voluntary disclosure program for companies, or their representatives, who discover they have an Arizona presence that creates a taxable nexus to the state. The Section reviews each case on the merits of that case in determining how far back, if any, the taxpayer should go. A Company wishing to come forward anonymously may do so and may use a

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## Exterminators Exempt From TPT for Post Construction Services

Laws 2000, Chapter. 33, section. 1, House Bill 2385 (44th Legislature, 2nd Regular Session) amended the prime contracting classification (A.R.S. sect 42-5075) to provide that gross proceeds of sales or gross income from "post construction treatment of real property for termite and general pest

control" are not subject to transaction privilege tax. Therefore, receipts from termite control services provided after a building is constructed are not subject to tax as prime contracting. The law is effective July 18, 2000 and is retroactive to December 31, 1993.

# \*\*\* REMINDER \*\*\*

## FOR NON-EFT TPT FILERS

**To avoid a delinquency, postmark your August 2000 TPT return no later than September 25th or deliver to DOR no later than September 28, 2000.**

## May Summary of General Fund Revenues

	May 2000	Fiscal Year Total
<b>Individual Income Tax</b>		
Net Collections	\$223,455,875	\$1,911,617,932
Percent Change *	27.8%	8.8%
<b>Corporate Income Tax</b>		
Net Collections	\$98,175,872	\$523,181,563
Percent Change *	(12.5%)	(4.1%)
<b>Transaction Privilege, Severance &amp; Use Taxes</b>		
Net Collections	\$247,172,117	\$2,817,525,828
Percent Change *	11.1%	9.8%
<b>Total Big Three Tax Types</b>		
Net Collections	\$568,803,864	\$5,252,325,323
Percent Change *	11.6%	7.9%

( ) Decrease from same month last year.

\* Percent change from same month last year.

## Individual Income Tax

### Individual Income Tax Receipts

May 2000	June 2000	June 1999	Change
Gross Collections	\$80,134,600	\$70,011,149	14.5%
Withholding	201,450,895	170,647,698	18.1%
Refunds	(26,653,704)	(37,519,471)	(29.0%)
Urban Rev Sharing	(31,475,916)	(28,359,221)	11.0%
<b>Net Collections</b>	<b>\$223,455,875</b>	<b>\$174,780,155</b>	<b>27.8%</b>
Fiscal Year Total	(99/00)	(98/99)	Change
Gross Collections	\$817,545,878	\$758,925,529	7.7%
Withholding	2,253,705,597	2,056,475,429	9.6%
Refunds	(781,922,555)	(717,771,496)	8.9%
Urban Rev Sharing	(377,710,989)	(340,310,656)	11.0%
<b>Net Collections</b>	<b>\$1,911,617,932</b>	<b>\$1,757,318,80</b>	<b>58.8%</b>

## TAX CALENDAR

SEPTEMBER 2000

Due Date		For Period Ending
4	State Holiday-Labor Day	All State Offices Closed
15	Income Tax Returns:	5/31/00
	Form 120: Corporation	
	Form 140: Individual	
	Form 141: Fiduciary	
	Form 165: Partnership	
15	Form 120: Corporation with Automatic Extension	11/30/99
15	Form 120S: S Corporation	6/30/00
15	Form 99: Exempt Organization Annual Information Return	4/30/00
	Form 99T: Exempt Organization	4/30/00
15	Form 120ES: Estimated Tax Payment, Corporation	
	First Installment	5/31/01
	Second Installment	3/31/01
	Third Installment	12/31/00
	Fourth Installment	9/30/00
20	Form TPT-1: Transaction Privilege Tax:	
	August Monthly Filers	8/31/00
20	Bingo: Financial Reports	8/31/00
20	Luxury Tax: Various Forms	8/31/00
25	EFT Form TPT-1 and Payment: Transaction Privilege Tax:	
	August Monthly Filers	8/31/00

### Withholding Information:

If the average amount of Arizona income taxes withheld in the preceding four calendar quarters **exceeds** \$1,500 the employer must make its Arizona withholding payments to the Department of Revenue at the same time as the employer is required to make federal withholding deposits.

If the average amount of Arizona income taxes withheld in the preceding four calendar quarters **does not exceed** \$1,500 the employer must make its Arizona withholding payments to the department on a quarterly basis.

The Arizona Tax News is a monthly publication of the Arizona Department of Revenue. Information contained herein is of a general nature and is not designed to address complex issues in detail. Taxpayers requiring information concerning a specific tax matter should contact the appropriate office. This newsletter is available in alternative formats upon request by calling the telephone number shown below. Subscription information may be obtained from the Community Outreach & Education Section, 1600 W. Monroe, 6th floor, Phoenix, AZ 85007, or call Tony Manzo at (602) 542-3062 or toll free 1 (877) 863-0655.

## Carefree Change in City Tax Code Effective September 1, 2000

The Mayor and Town Council of the Town of Carefree passed Ordinance No. 2000-05. Ordinance 2000-05 deletes Local Option B. Deleting Option B reserves out Sec. 280-Transactions with governmental agencies, and establishes paragraph (n) of Sec.465-Retail Exemptions, relating to sales made directly to the federal government. Sales made directly to the Federal government are exempt to the extent of:

- (1) one hundred percent (100%) of the gross income derived from retail sales made by a manufacturer, modifier, assembler, or repairer.
- (2) fifty percent (50%) of the gross income derived from retail sales made by any other person.

## Change in City Tax Code Snowflake Effective October 1, 2000

The Mayor and Town Council of the Town of Snowflake passed Ordinance No. 169. Ordinance 169 deletes Model Option 6 and establishes Section 447-Additional tax on transient lodging. The tax rate for Sec. 447-Additional tax on transient lodging is 2% reported using CODE SN1. Taxpayers in the business of Transient lodging (Hotel/

Motel) must report gross receipts from all business classifications using Code SN at 2%. In addition, the taxpayers in the business of Transient lodging must report gross receipts from room rentals using Code SN1 at 2% for a total tax rate of 4%. All other classifications will continue to report using Code SN.

## Springerville Change in City Tax Code Effective June 21, 2000

The Mayor and Town Council of the Town of Springerville passed Ordinance No. 2000-001. Ordinance 2000-001 deletes Local Option B. Deleting Option B reserves out Sec. 280-Transactions with governmental agencies, and establishes paragraph (n) of Sec.465-Retail Exemptions, relating to sales made directly to the federal government. Retail sales to the Town of Springerville are no longer exempt. Sales made directly to the Federal government are exempt to the extent of:

- (1) one hundred percent (100%) of the gross income derived from retail sales made by a manufacturer, modifier, assembler, or repairer.
- (2) fifty percent (50%) of the gross income derived from retail sales made by any other person.

*The Court also rejected "Care's argument that a retail transaction privilege tax requires a higher level of nexus with a taxing state than does a use tax."*

## Department of Revenue v. Care Computer Systems

On July 25, 2000, the Arizona Court of Appeals issued a decision in *Arizona Department of Revenue v Care Computer Systems, Inc.* The Court, in a 2-1 decision, found in favor of the Department and held that Care Computer ("Taxpayer") had sufficient nexus to be required to pay transaction privilege tax.

Taxpayer is a Washington corporation that sells and licenses computer hardware and software to nursing homes. During the audit period, Taxpayer engaged in approximately 180 transactions with Arizona nursing homes (two transactions were leases, the rest were sales). Taxpayer had one salesperson, a California resident, assigned to cover Arizona. The salesperson did not initiate any sales relationships in Arizona, but made seven follow-up trips into Arizona during the seven year audit period. All of Taxpayer's

contracts were approved by, and goods were shipped via common carrier or U.S. mail from Taxpayer's office in Washington. Taxpayer also provided training in Arizona that resulted in representatives being in Arizona on eighty days out of the forty-five months reviewed.

The Court followed the reasoning in *Arizona Department of Revenue v O'Connor, Cavanagh, Anderson, Killingsworth & Beshears, P.A.*, 192 Ariz. 200, 963 P.2d 279 (App. 1997), by holding that the Department could not impose a use tax on an in-state customer where the out-of-state vendor had sufficient nexus to be required to pay transaction privilege tax. The Court also rejected "Care's argument that a retail transaction privilege tax requires a higher level of nexus with a taxing state than does a use tax."

## Globe Change in City Tax Code Effective October 1, 2000

The Mayor and the Council of the City of Globe has passed Ordinance No. 709. Ordinance No. 709 decreases the City of Globe Additional Tax on Transient Lodging

using CODE GL3. The total tax rate for Hotel businesses will be 4.5% which consists of 1.5% privilege tax and 3% Additional Tax on Transient Lodging.

## Change in County Tax Code Yuma County Use Tax Effective January 1, 2001

As provided by A.R.S. §42-6102(B) the Yuma County Jail District Board of Directors approved a use tax levy on electricity purchased by retail customers from out-of-state electricity suppliers. The tax rates are as follows:  
The use tax is to be applied as ten percent

(10%) of the use tax levied by the State of Arizona, as stated in A.R.S. §42-6102(A), effective January 1, 2001. The combined Yuma County and state rate for this activity is 6% and is reported in Class 26 YMA, Use Tax Electricity.

# Corporate Income Tax Nexus

(Continued from page 1)

- representative to forward to the Section the relevant facts for a determination. A nexus disclosure proposal should advise the Department:
- (1) What type of company they are (products and/or services performed)?
  - (2) How long have they been in AZ?
  - (3) What activities created the taxable presence?
  - (4) Reason for non-filing?
  - (5) Has there been any prior contact by DOR (for any tax type)?
  - (6) Are they remitting any other types of taxes and if so when they began?

- (7) Are they registered with the Corporation Commission? If so what is the date of approval?
  - (8) What type of return will they be filing?
  - (9) What was their taxable income for each year in Arizona? And,
  - (10) What they are proposing to come forward anonymously?
- The request should be mailed to Arizona Department of Revenue, Corporate Income Tax Audit Section, P.O. Box 29080, Phoenix, Arizona 85038-9080 Attn: Nexus, or faxed to (602) 542-3258 Attn: Nexus. Any Question should be addressed to Jack Magee at (602) 542-3345 ext. 4517.

*The Supreme Court held that interstate commerce enjoys no immunity from tax. In fact, interstate commerce should pay its fair share.*

## Arizona Corporate Income Tax Rates (A.R.S. § 43-1111)

**NOTE:** Tax is a stated percent of net income, or \$50, whichever is greater.

Taxable Year	Tax Rate (%)	Comments
1990	9.3	Rate changed by Laws 1990, 3rd Spec. Sess., Ch. 3, § 40.
1991	9.3	
1992	9.3	
1993	9.3	
1994	9.0	Rate changed by Laws 1994, 2nd Reg. Sess., Ch. 41, § 28.
1995	9.0	
1996	9.0	
1997	9.0	
1998	8.0	Rate changed by Laws 1998, 4th Spec. Sess., Ch. 3, § 10.
1999	8.0	
2000	7.968	Rate changed by Laws 1999, 1st Reg. Sess., Ch. 318, § 3.
2001	6.968	Rate changed by Laws 2000, 2nd Reg. Sess., Ch. 48, § 4, and Laws 2000, 2nd Reg. Sess., Ch. 390, § 30.

**NOTE:** Laws 1999, 1st Spec. Sess., Ch. 5, provided for a conditional enactment of a tax rate change effective for taxable year 2001. The conditional enactment of a rate change (and the rate change amount) was dependent on the amount of the actual general fund revenue for fiscal year 1998-1999. The tax rate change “triggered” by the actual general fund revenue was 7.0 percent. Laws 2000, 2nd Reg. Sess., Ch. 48, § 3, repealed the amendment by Laws 1999, 1st Spec. Sess., Ch. 5, effective from and after December 31, 2000.

# 2000 Arizona Tax Conference

The 2000 Arizona Tax Conference will be held in Flagstaff September 20, 21 and 22, 2000 at the Little America Hotel.

Conference highlights include a Golf Tournament on Wednesday, September 20, at *Elden Hills Golf Course* in Flagstaff, and the opening reception Wednesday evening at Little America.

Conference Sessions include:

- The Initiative Process: Who's In Charge?
- Property Tax Collections: Lien on Me.
- Pass-Through Entity Taxation: The Future is Now.
- Legislative and Litigation Updates.

- Contaminated Property Issues.
- The Single Tax Roll.
- Hot Topics in Property Tax Workshop.

The Conference may qualify for up to nine Continuing Education Credits for Real Estate, Law, CPA, and Appraisal.

For more information or conference registration materials please contact:

Vicki Chappel  
Property Tax Division  
Arizona Department of Revenue  
Phone: 602-542-3529

